

**ADDITIONS TO THE PROPOSED TEXT ARE INDICATED IN  
UNDERLINE (“  ”) AND DELETIONS IN STRIKETHROUGH  
 (“”) FORMAT**

DIVISION 2. BOARD OF PRISON TERMS  
CHAPTER 5. PAROLE SUPERVISION  
ARTICLE 5. MENTALLY DISORDERED OFFENDER CERTIFICATION AND  
HEARING PROCEDURES

**§ 2576. Certification Hearing.**

(a) The purpose of a certification hearing is to determine whether or not the prisoner/parolee, in fact, meets the criteria required for treatment by the State Department of Mental Health as a condition of parole as set forth in Penal Code section 2962.

(b) (1) The standard of proof used by the board at this hearing shall be a preponderance of evidence standard.

(2) The burden of proof to establish that the prisoner meets the criteria set forth in Penal Code section 2962 shall be on the person or agency that so certified.

(3) The prisoner/parolee shall have the rights specified in ~~sections~~ §§ 2245- 2256.

(4) An attorney shall be appointed or retained to represent the prisoner or parolee. Attorney waivers will not be accepted.

(5) The prisoner shall be informed that he/she has the right to request an evaluation by two independent professionals from the approved list provided by the State Department of Mental Health and the Department of Corrections. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as defined in Penal Code section 2978.

(6) The record of the hearing shall be a tape recording.

(7) Written Decision. The prisoner and his or her attorney shall receive a copy of the decision specifying the decision, the information considered, and the reasons for the decision.

(8) A prisoner may appeal a certification hearing decision pursuant to ~~section~~ § 2050.

(9) The hearing shall be conducted by ~~two~~ one Deputy Commissioners.

(10) The prisoner shall be informed at the hearing of his or her right to request a trial on whether he or she meets the criteria of Penal Code section 2962.

(11) The board shall provide a prisoner who requests a trial a petition form and instructions for filing the petition.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 2966 and 2978, Penal Code.

(MDO Hearings--7/10/2003)

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**§ 2578. Placement Hearings.**

(a) If the State Department of Mental Health has not placed a parolee on outpatient treatment within sixty (60) days after receiving custody of the parolee or after parole is continued pursuant to Penal Code section 3001, the parolee may request a hearing before the board to determine whether he or she shall be treated as an inpatient or an outpatient.

(b)(1) The standard of proof used at this hearing shall be a preponderance of the evidence standard.

(2) The burden of proof shall be on the State Department of Mental Health to establish that the prisoner requires inpatient treatment.

(3) The prisoner/parolee shall have the rights specified in ~~sections~~ §§ 2245- 2256.

(4) An attorney shall be appointed or retained to represent the prisoner or parolee. Attorney waivers will not be accepted.

(5) Parolees shall be informed that they have a right to request evaluations by two (2) independent professionals from the approved list provided by the Department of Corrections and the State Department of Mental Health. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as defined in Penal Code section 2978.

(6) The record of the hearing shall be a tape recording.

(7) Written Decision -The parolee and his attorney shall receive a copy of the decision specifying the decision, the information considered and the reasons for the decision.

(8) A parolee may appeal a placement hearing decision pursuant to ~~section~~ § 2050.

(9) The hearing shall be conducted by ~~two~~ one Deputy Commissioners.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 2964, Penal Code.

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**§ 2580. Discharge Review and Annual Review Hearings.**

(a) If the P&CSD at the time of the review required by ~~section~~ § 2535 recommends that the parolee be retained on parole and to reaffirm the special condition of treatment by the State Department of Mental Health, and the decision of central office calendar is to retain and reaffirm, the parolee is entitled to an Annual Review Hearing conducted under the provisions of subdivision (b) of this section.

(b) The purpose of the hearing is to determine whether:

(1) ~~¶~~The parolee has a severe mental disorder. The parolee's severe mental disorder is not in remission or cannot be kept in remission without treatment.

(2) The crime occurred on or after January 1, 1986.

(3) The prisoner represents a substantial danger of physical harm to others by reason of his or her severe mental disorder.

(4) The parolee can be safely and effectively treated on an outpatient basis if the parolee is still being treated as an inpatient.

(c)(1) The standard of proof used by the board at this hearing shall be a preponderance of the evidence standard.

(2) The burden of proof shall be on the State Department of Mental Health to establish that the parolee is not in remission or cannot be kept in remission without treatment and requires further treatment.

(3) The parolee shall have the rights specified in ~~sections~~ §§ 2245-2256.

(4) An attorney shall be appointed or retained to represent the parolee. Attorney waiver will not be accepted.

(5) The record of the hearing shall be a tape recording.

(6) Parolees shall be informed that they have a right to request evaluation by two (2) independent professionals from the approved list provided by the Department of Corrections and State Department of Mental Health. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as defined in Penal Code section 2978.

(7) The parolee and attorney shall receive a copy of the decision specifying the decision, the information considered, and the reasons for the decision.

(8) A parolee may appeal the decision pursuant to ~~section~~ § 2050.

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(9) The hearing shall be conducted by ~~two~~ one Deputy Commissioners.

(10) The parolee shall be informed at the hearing of his or her right to request a trial under the provisions of law.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 2962, 2964, 2966, 2978 and 2980, Penal Code.